

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
DOCKET NO. 1:15-cr-00068-MOC

UNITED STATES OF AMERICA,

Vs.

JAMIE LYNN SWARTZ,

Defendant.

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ORDER

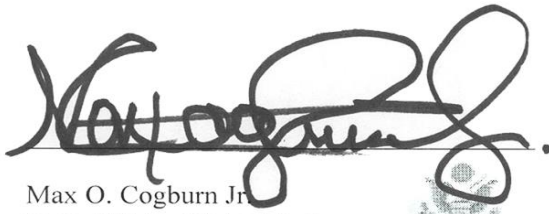
THIS MATTER is before the court on a pro se letter from defendant, who is presently incarcerated on the Judgment entered by this court on March 25, 2016, sentencing her to 70 months incarceration. Defendant did not appeal that Judgment, which is now final.

In her letter, defendant states in relevant part that “I would like to apply for the minor role.” Letter (#101) at ¶1. The court concludes that defendant is asking the court to reduce her sentence based on her allegedly playing a “minor role” in the offense of conviction, which was a conspiracy to distribute a controlled substance. Defendant’s request for a sentence reduction is not timely as the Judgment is now final and the court lacks authority to alter such sentence at this point under Rule 35(a) or Rule 36 of the Federal Rules of Criminal Procedure. The court notes that defendant received a below guidelines sentence based on a joint motion for a downward variance (based on her criminal history overstating the seriousness of prior criminal conduct) and that no additional levels were imposed for her role in the offense.

ORDER

IT IS, THEREFORE, ORDERED that defendant's letter (#101), deemed to be a Motion to Correct of Reduce a Sentence under Rule 35, is **DENIED** as untimely.

Signed: September 19, 2016

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written over a horizontal line. The signature is stylized with large loops and a trailing flourish.

Max O. Cogburn Jr.
United States District Judge

